

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

v

Blue Cross and Blue Shield of Michigan
Respondent

File No. 85132-001

Issued and entered
this 13th day of November 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On September 17, 2007, XXXXX, authorized representative of his late wife XXXXX (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the material submitted and accepted the request on September 24, 2007.

The Commissioner assigned the case to an independent review organization (IRO) because it involved medical issues. The IRO provided its recommendations to the Commissioner on October 12, 2007.

II

FACTUAL BACKGROUND

The Petitioner received health care benefits from Blue Cross and Blue Shield of Michigan (BCBSM) under its Comprehensive Health Care Group Benefit Certificate (certificate).

The Petitioner had inpatient mental health treatment from May 20 through June 29, 2006 and from July 3 to July 13, 2006 at XXXXX in XXXXX, Texas. The Petitioner died February 8, 2007 due to medical reasons. The amount charged for the two admissions at XXXXX was \$44,100.00. BCBSM denied payment for this care.

The Petitioner appealed the denied claims. After a managerial-level conference on August 16, 2007, BCBSM did not change its decision and issued a final adverse determination dated August 20, 2007.

III ISSUE

Did BCBSM properly deny coverage for the Petitioner's inpatient mental health care provided at XXXXX?

IV ANALYSIS

Petitioner's Argument

The Petitioner's doctor indicated:

XXXXX was hospitalized for major depression, severe, and alcohol dependence. Additional assessment revealed a significant history of up swings and angry outbursts that qualify for a diagnosis of panic disorder. Very significant was also the presence of a personality disorder with histrionic and borderline features that enormously challenged her capacity to engage in treatment. Thus, she needed care for a life threatening condition as her suicidality and would recur without a specialized treatment program that could interrupt addictive patterns, help her stabilize her mood, challenge maladaptive personality patterns and family relationships, address her chronic vulnerability to suicidality and self-destructiveness and her traumatic history, and help her develop more adaptive coping skills so she could utilize outpatient treatment effectively and make a genuine commitment to sobriety. Only a sub acute specialty inpatient program could provide such treatment. Previous outpatient treatment had not been effective. Hospitals in XXXXX's network provide only acute care and would not have addressed her needs.

Therefore, her family believes that the Petitioner's care at XXXXX was medically necessary and a covered benefit under her BCBSM certificate. BCBSM should be required to pay for this care.

BCBSM's Argument

It is BCBSM's position that the Petitioner's inpatient admission was not a covered benefit under the certificate. BCBSM obtained the Petitioner's medical records from the facility and had them reviewed three times by its medical consultants to determine if she met the criteria for inpatient mental health care as defined in the certificates. The conclusion of all three reviews was that the Petitioner did not meet the criteria.

The certificate (page 6.13) has the following language in its definitions of "medical necessity":

For inpatient hospital stays, acute care as an inpatient must be necessitated by the patient's condition because safe and adequate care cannot be received as an outpatient or in a less intensified medical setting.

BCBSM's medical consultants reviewed the Petitioner's medical records and reported:

Inpatient hospital level of care was not medically necessary because the patient did not exhibit the severity of symptoms necessitating the intensity of services of 24 hour nursing supervision in a structured environment.

Based on this conclusion BCBSM determined that the Petitioner's inpatient mental health care was not a covered benefit.

Commissioner's Review

The Commissioner reviewed the certificate, the arguments, and documents presented by the parties and the IRO report.

BCBSM argued that the Petitioner's inpatient mental health care was not covered because she could have been treated in a less intensive setting. This meant, under the language of the certificates, that inpatient care was not medically necessary.

The question of whether it was medically necessary for the Petitioner to be treated in an inpatient setting was presented to an IRO for analysis as required by section 11(6) of PRIRA, MCL 550.1911(6). The IRO physician reviewer in this matter is board certified in psychiatry and has been in active practice for twenty years.

The IRO reviewer noted that while the Petitioner reported suicidal thoughts and auditory phenomena she did not have a particular suicidal plan, seriously depressive features, or truly psychotic features according to the records provided in the case file. There was evidence of borderline features, alcohol abuse, a traumatic history, and a reported need to obtain distance. However, there was no clear objective evidence of psychiatric symptoms requiring inpatient treatment during her first inpatient stay at XXXXX from May 20 through June 29, 2006.

After the Petitioner was treated for medical problems she returned to XXXXX from July 7 until July 13, 2006. The IRO medical reviewer concluded that the severity of the Petitioner's psychiatric problems were not evident from the information provided in the file for this readmission. There was no major or ongoing acuity of her psychiatric symptoms to warrant further inpatient care. The medical consultant concluded that the Petitioner could have been treated at an intense outpatient level of care during both of her admissions at XXXXX. Therefore, the physician consultant determined that it was not medically necessary for the Petitioner to be treated at an inpatient level of care from May 20 to June 29, 2006 and from July 3 until July 13, 2006.

The IRO reviewer's recommendation is based on extensive expertise and professional judgment and the Commissioner finds no reason to reject it. Therefore, the Commissioner accepts the IRO reviewer's conclusion that the Petitioner could have been treated at a less intense level of care and that inpatient care was not medically necessary. Based on this conclusion, the Commissioner finds that the Petitioner's inpatient mental health care at XXXXX is not a covered benefit under her certificate.

V ORDER

Respondent BCBSM's August 20, 2007, final adverse determination is upheld. BCBSM is not required to provide coverage for the Petitioner's inpatient care provided from May 20 through June 29, 2006 and from July 3 until July 13, 2006 at XXXXX.

Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.